

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDWARD RIVEIRA, *et al.*,

Plaintiffs,

v.

SCOTT DRESCH, in his individual capacity,
and DOES 1-10,

Defendants.

CASE NO. C18-1211-JCC

ORDER

This matter comes before the Court on Plaintiffs' motion to extend deadline for responding to Defendant's motion to dismiss (Dkt. No. 35) and Defendant's motion for a protective order staying discovery pending resolution of Defendant's motion to dismiss (Dkt. No. 37.) The parties have each represented that they do not oppose the other's motion if their own is granted. (*See* Dkt. Nos. 39 at 2; 42 at 3, 5.) Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS both motions for the reasons explained herein.

I. BACKGROUND

Plaintiffs bring suit against Defendant for violation of their Fourth Amendment rights against unreasonable searches and seizures. (*See generally* Dkt. No. 10.) On March 15, 2018, Defendant moved to dismiss Plaintiffs' amended complaint for failure to state a claim on which

1 relief may be granted, arguing in part that Defendant is entitled to qualified immunity. (*See*
2 *generally* Dkt. No. 33.) Plaintiffs now move for an extension of time to respond to Defendant's
3 motion to dismiss, (Dkt. No. 35), and Defendant moves for a protective order temporarily staying
4 discovery pending the resolution of his motion to dismiss. (Dkt. No. 37.)

5 **II. DISCUSSION**

6 **A. Motion for Extension of Time**

7 Defendant's motion to dismiss is presently noted for the Court's consideration on April
8 12, 2019, with Plaintiffs' response due on April 8, 2019. (Dkt. No. 33); W.D. Wash. Local Civ.
9 R. 7(d)(3). Plaintiffs seek an extension of the deadline to file a response brief to May 6, 2019 due
10 to Plaintiffs' counsel's busy trial and arbitration schedule. (Dkt. No. 35 at 2–5.) Finding good
11 cause under Federal Rule of Civil Procedure 6(b), the Court GRANTS Plaintiffs' motion.

12 **B. Motion for Protective Order Staying Discovery**

13 Defendant moves for a protective order pursuant to Federal Rule of Civil Procedure 26(c)
14 temporarily staying discovery pending the Court's resolution of his motion to dismiss. (Dkt. No.
15 33.) Upon motion by a party or person from whom discovery is sought, a court "may, for good
16 cause, issue an order to protect a party or person from . . . undue burden or expense . . ." Fed. R.
17 Civ. P. 26(c). A court may stay discovery pending the resolution of a motion to dismiss that does
18 not raise factual issues requiring discovery. *Jarvis v. Regan*, 833 F.2d 149, 155 (9th Cir. 1987).
19 Generally, the scope of discovery is highly limited where an individual government official
20 raises a qualified immunity defense. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982);
21 *Anderson v. Creighton*, 483 U.S. 635, 638 (1987). This Court has noted that limited discovery
22 may be permitted where there are factual disputes as to the basis for a claim of qualified
23 immunity. *See Tubar v. Clift*, Case No. C05-1154-JCC, Dkt. No. 28 at 4 (W.D. Wash. 2006).

24 Defendant's motion to dismiss is a facial attack on Plaintiffs' amended complaint,
25 arguing that Plaintiffs have failed to state a claim upon which relief may be granted. (Dkt. No.
26 33.) Defendant contends that the motion to dismiss does not raise any factual issues that must be

1 resolved before the Court rules on the motion, and Plaintiffs have not pointed to any such factual
2 disputes. (*See* Dkt. Nos. 37 at 2–4, 42 at 2–5.) Further, Defendant has demonstrated that he
3 would be substantially burdened in complying with Plaintiffs’ discovery requests, which may be
4 obviated by the Court’s ruling on the pending motion to dismiss. (Dkt. No. 37 at 5–7.) Therefore,
5 finding good cause pursuant to Federal Rule of Civil Procedure 26(c), the Court GRANTS
6 Defendant’s motion.

7 **III. CONCLUSION**

8 For the foregoing reasons, Plaintiffs’ motion to extend deadline for responding to
9 Defendant’s pending motion to dismiss (Dkt. No. 35) is GRANTED. Plaintiffs shall file their
10 brief in response to Defendant’s motion to dismiss no later than May 6, 2019. Defendant shall
11 file his reply brief no later than May 10, 2019. The Clerk is DIRECTED to re-note Defendant’s
12 motion to dismiss (Dkt. No. 33) to May 10, 2019.

13 Defendant’s motion for a protective order staying discovery in this case pending
14 resolution of Defendant’s motion to dismiss (Dkt. No. 37) is GRANTED. All discovery in this
15 matter is STAYED pending resolution of Defendant’s motion to dismiss. (Dkt. No. 33.)

16 DATED this 5th day of April 2019.

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20 John C. Coughenour
21 UNITED STATES DISTRICT JUDGE
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